

IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL
WRIT PETITION NO. 665 (MS) OF 2006

Mohan Lal Shah,
S/o Sri Bharosha,
R/o Village Bhelunta, Patti Oun,
Tehsil Pratapnagar,
District-Tehri Garhwal. Petitioner.

Versus

1. State of Uttaranchal, through Secretary, Panchayat Raj
Uttaranchal Sashan, Dehradun.
2. Deputy Collector Pratapnagar,
District Tehri Garhwal.
3. District Magistrate, Tehri Garhwal,
District Tehri Garhwal.
4. Block Development Officer Pratapnagar,
District Tehri Garhwal. Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri H.M. Raturi, Advocate for the petitioner and
Standing Counsel for respondents.

By the present writ petition, the petitioner has prayed for
a writ of certiorari quashing the inquiry report dated
19.04.2006 (Annexure No. 1 to the writ petition).

Briefly stated, the petitioner has claimed himself to be
the duly elected Pradhan of Village Bheluinta Patti Oun Tehsil
Pratapnagar, District Tehri Garhwal and who is still holding
the post of Gram Pradhan of Village Bhelunta Patti Oun Tehsil

Pratapnagar, District Tehri Garhwal and the term of the petitioner as a Pradhan is upto March, 2008.

On 23rd September, an application was moved by Sri Narain Dutt Joshi with regard to the certain irregularities committed by the petitioner. However, the Deputy Collector Pratap Nagar passed an order by which the financial power of the petitioner was seized vide order of the Deputy Collector passed on 23.09.2005.

According to the petitioner, he has approached the Deputy Collector Pratap Nagar as the order was passed without affording any opportunity to the petitioner but no action was taken subsequently some local residents of Village Bhelunta made a complaint and without affording any opportunity to the petitioner the inquiry proceeded.

The grievance of the petitioner is that in spite of asking for the furnishing the copy of the complaint to the petitioner, the same could not be supplied to the petitioner.

The petitioner has further submitted that the rules with regard to the inquiry has completely been violated as Rule 4 provides for the preliminary inquiry and thereafter, the procedure has been prescribed under Rule 6. The grievance of the petitioner is that not a single document has been given to him. Relevant Sub Rule (3) of Rule 6 is quoted below:-

“(3) the Inquiry Officer shall deliver or cause to be delivered to the person against whom he is to hold the enquiry, a copy of articles of charge, the statement of the imputations and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require that person by a notice in writing, to submit within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person,

and to appear ion person before him on such day and at such time as may be specified.”

However, liberty is given to the petitioner to approach the Collector by making his grievance stating therein that the procedure prescribed for inquiry has not been satisfied and the petitioner has not been afforded any document as required under Sub Rule 3 of Rule 6 and further he has not even been afforded any opportunity of filing the written statement as required by the Sub Rule 4 of Rule 6.

A perusal of the inquiry report does not show that any opportunity of written statement was given to the petitioner.

If the petitioner files an application in this regard, the Collector shall consider the same within a period of 15 days and if is satisfied that the petitioner has not been given any opportunity, the Collector shall follow the procedure as prescribed under U.P. Panchayat Raj (Removal of Pradhan, Up-Pradhans and Members) Enquiry Rules, 1997 and shall proceed in accordance with law.

the Collector shall dispose of the application filed by the petitioner within a period of 15 days from the date of presentation of the certified copy of the order. If any action is taken, liberty is given to the petitioner to approach this Court.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

08.06.2006

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